

6141

ARTICLES OF ORGANIZATION

OF

MCMARK, LLC

The undersigned organizer sets forth the following as the Articles of Organization of McMark, LLC (the "Company"), pursuant to Title 13.1, Chapter 12 of the Code of Virginia, as amended (the "Code"):

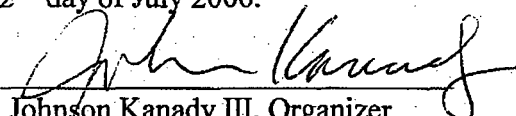
1. **NAME.** The name of the Company is McMark, LLC;

2. **REGISTERED AGENT AND ADDRESS.** The address of the initial Registered Office of the Company 7130 Glen Forest Drive, Suite 120, Richmond, Virginia 23226, in Henrico County, Virginia. The initial Registered Agent of the Company is Johnson Kanady III, who is an individual who is a resident of the Commonwealth of Virginia, a member of the Virginia State Bar, and whose business address is the same as the address of the initial Registered Office;

3. **PRINCIPAL OFFICE.** The post office address of the principal office of the Company is 330 Chesapeake Drive, Great Falls, Virginia 22066 in Fairfax County, Virginia;

4. **MANAGER.** The Company shall be managed by a Manager;

Witness the following signature the 12th day of July 2006.


Johnson Kanady III, Organizer

**OPERATING STATEMENT
OF
MCMARK, LLC**

This Operating Statement (the Statement) of McMark, LLC, a Virginia limited liability company (the Company), is made as of the 14th day of July 2006, by the Member, as hereinafter defined.

**ARTICLE I
DEFINITIONS**

The following words shall have the meanings set forth below:

1.01 **Act.** The Virginia Limited Liability Company Act, sections 13.1-1000 through 13.1-1073, as set forth in the Virginia Code, as may be amended or superseded from time to time.

1.02 **Affiliate.** As used in this Agreement, "Affiliate" of a specified Person means (i) any Person directly or indirectly controlling, controlled by or under common control with the Person specified, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities or beneficial interests of the Person specified, (iii) any officer, director, partner, trustee of the Person specified, or (iv) if the Person specified is an officer, director, general partner or trustee, any corporation, partnership or trust for which that Person acts in that capacity. The term "control" (including the term "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

1.03 **Business.** The ownership, management, and operation of the Company, and all business activities related or incidental thereto.

1.04 **Capital Account.** As of any date, the Capital Account maintained for the Member.

1.05 **Capital Contribution.** The amount of money or the fair market value of property contributed to the Company by the Member on the date of contribution.

1.06 **Code.** The Internal Revenue Code of 1986, as may be amended or superseded from time to time.

1.07 **Company.** McMark, LLC, a Virginia limited liability company.

1.08 **Interest.** The ownership interest of the Member in the Company at any particular time, including the right of the Member to any and all benefits to which the Member is entitled and obligations to which the Member is subject under this Statement.

1.09 **Member.** The person who has signed this Statement in the capacity of a Member of the Company and any person admitted as a new Member under this Statement.

1.10 Person. Any human being or firm, organization, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

1.11 Property. The assets, including all personal and real property, owned by the Company for use in the business. The Properties owned by the Company are identified on Exhibit A, attached hereto.

ARTICLE II FORMATION AND TERM

2.01 Formation. The Member acknowledges the formation of the Company under the Act. The Virginia State Corporation Commission (SCC) issued the Certificate of Organization on the 14th day of July 2006.

2.02 Term. The term of the Company shall be perpetual unless terminated in accordance with this Statement.

2.03 Business of the Company. The business of the Company is to engage in any lawful business.

2.04 Tax Treatment. The Member intends that the Company be disregarded as an entity separate from the Member and this Statement shall be interpreted accordingly.

ARTICLE III NAME, PRINCIPAL OFFICE, AND REGISTERED AGENT

3.01 Name. The name of the Company is McMark, LLC. The business of the Company may be conducted under such trade or fictitious names as the Member may determine.

3.02 Principal Office. The principal office of the Company, at which the records required to be maintained by the Act are to be kept, shall be 330 Chesapeake Drive, Great Falls, Virginia 22066, or such other place as the Members may determine.

3.03 Registered Agent. The Company's agent for service of process shall be Johnson Kanady III, who is a member of the Virginia State Bar and whose office address is 7130 Glen Forest Drive, Suite 120, Richmond, Virginia 23226, or any other qualified person as the Member may designate.

ARTICLE IV THE MEMBER AND CAPITAL

4.01 The Member and Initial Capital Contribution. The Member has contributed One Hundred and 00/100 Dollars (\$100.00) to the capital of the Company. The Managers will determine the capital contribution for any person who acquires an interest in the Company after the date of execution of this Statement and is admitted as a Member pursuant to paragraph 7.01.

4.02 Additional Capital Contribution. The Member shall not be required to make any capital contribution in addition to its initial capital contribution. The Member may make additional capital contributions to the Company as it shall determine from time to time.

4.03 Interest and Return of Capital Contribution. The Member shall not receive any interest on its capital contribution. Except as otherwise expressly provided herein, the Member shall not be allowed to withdraw or have refunded its capital contribution.

4.04 Loans by Member. The Member shall not be required to make any loan to the Company. The Member may loan to the Company any sum that the Member determines to be appropriate for the conduct of the business. Unless agreed between the Company and the Member, any such loan shall bear interest at a fluctuating rate equal to -0- percentage points above the prime rate. Any loan under this paragraph shall be repaid in full before any distributions are made under Article V.

4.05 No Third-Party Beneficiaries. The provisions of this Statement relating to the financial obligations of the Member are not intended to be for the benefit of any creditor or other person to whom any debts, liabilities, or obligations are owed by the Company. No creditor or other person shall obtain any right or make any claim under this Statement with respect to any debt, liability, or obligation against the Company.

4.06 Capital Accounts. The Company shall maintain a Capital Account for each Member.

ARTICLE V DISTRIBUTIONS

After payment of, or provision for, such expenditures as the Managers deem advisable, cash from operations and sales of assets of the Company shall be distributed to the Member at such times as the Managers may determine.

ARTICLE VI MANAGEMENT BY MANAGERS

6.01 Managers. Except as expressly provided otherwise in the Act, the Articles or this Statement, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed by, one or more Managers. The powers so exercised shall include but not be limited to the following:

(a) Entering into, making and performing contracts, agreements and other undertakings binding the Company that may be necessary, appropriate or advisable in furtherance of the purposes of the Company.

(b) Opening and maintaining bank accounts, investment accounts and other arrangements, drawing checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and

arrangements. Company funds shall not be commingled with funds from other sources and shall be used solely for the business of the Company.

(c) Collecting funds due to the Company.

(d) Acquiring, utilizing for the Company's purposes, maintaining and disposing of any assets of the Company.

(e) To the extent that funds of the Company are available therefore, paying debts and obligations of the Company.

(f) Borrowing money or otherwise committing the credit of the Company for Company activities, and voluntarily prepaying or extending any such borrowings.

(g) Employing from time to time persons, firms or corporations for the operation and management of various aspects of the Company's business, including, without limitation, managing agents, contractors, subcontractors, architects, engineers, laborers, suppliers, accountants and attorneys on such terms and for such compensation as the Manager shall determine, notwithstanding the fact that the Manager or any Member may have a financial interest in such firms or corporations.

(h) Making elections available to the Company under the Code.

(i) Obtaining general liability, property and other insurance for the Company, as the Manager deem proper.

(j) Taking such actions as may be directed by the Member in furtherance of their approval of any matter set forth herein that requires such approval.

(k) Doing and performing all such things and executing, acknowledging and delivering any and all such instruments as may be in furtherance of the Company's purposes and necessary and appropriate to the conduct of its business.

6.02 Appointment of Initial Manager. Tidal W. McCoy shall be the initial Manager of the Company.

6.03 Action by Two or More Managers. In the event there are at any time two or more Managers, unless otherwise expressly provided by the Act, the Articles, or the terms of this Operating Agreement, the vote, approval or consent of a majority of the Managers, determined on a per capita basis, shall be necessary and sufficient for the Managers to take any action on behalf of the Company that the Managers are authorized to take pursuant to the Act, the Articles or this Operating Agreement.

6.04 Execution of Documents and Other Actions. The Manager may execute any documents or take any other actions deemed necessary or desirable in furtherance of any action authorized on behalf of the Company as provided herein.

6.05 Single Manager. If at any time there is only one Person serving as a Manager, such Manager shall be entitled to exercise all powers of the Managers set forth in this Section, and all references in this Section and otherwise in this Operating Agreement to "Managers" shall be deemed to refer to such single Manager.

6.06 Manager's Expenses and Fees. A Manager shall be entitled, but not required, to receive a reasonable salary for services rendered on behalf of the Company or in his capacity as a Manager. The amount of such salary shall be determined by the Managers and consented to by the Members, which consent shall not be unreasonably withheld. The Company shall reimburse any Manager for reasonable out-of-pocket expenses that were or are incurred by the Manager on behalf of the Company with respect to the start-up or operation of the Company, the on-going conduct of the Company's business, or the dissolution and winding up of the Company and its business.

6.07 Competition. During the existence of the Company, the Manager shall devote such time to the business of the Company as may reasonably be required to conduct its business in an efficient and profitable manner. The Manager, for his own account and for the account of others, may engage in business ventures, including the acquisition of real estate properties or interests therein and the development, operation, management and/or syndication of real estate properties or interests therein, which may compete with the business of the Company. Each Member hereby expressly consents to the continued and future ownership and operation by the other Members or the Manager of such properties and waives any claim for damages or otherwise, or rights to participate therein or with respect to the operation and profits or losses thereof.

6.08 Third-Party Reliance. Third parties dealing with the Company shall be entitled to rely conclusively upon the power and authority of the Managers as set forth herein, subject only to the express limitations set forth in this Agreement or by law.

6.09 Duties of Manager. The Manager will devote such time, effort and skill in the management of the Company's business affairs, as he deems necessary and proper for the Company's welfare and success. The Member expressly recognizes that the Manager has substantial other business activities and agrees that the Manager shall not be bound to devote all of his time to the affairs of the Company and that the Manager or his Affiliates may engage for their own account and for the account of others in other businesses or activities, including businesses or activities wherein the Manager's interests may conflict with the interests of the Company.

6.11 Transactions with Manager and Affiliates. Subject to obtaining any consent required under the terms of this Agreement, the Managers may appoint, employ, contract, or otherwise deal with any Person, including a Manager and Affiliates of a Manager, individuals with whom a Manager is related, and with Persons that have a financial interest in a Manager or in which a Manager has a financial interest, for transacting the Company's business; provided, however, these or other payments under the terms of contracts with these related parties shall not be in excess of prevailing competitive rates for the transactions.

6.12 Indemnification. The Company shall indemnify the members of the Manager, the agents, officers and employees of any Manager or any Manager's affiliates, if such affiliate is performing duties at the request of the Managers, to the full extent permitted by the Act. The Manager may take such action as is necessary to carry out these indemnification provisions and may adopt, approve and amend from time to time such resolutions or contracts implementing such provisions or such further indemnification arrangements as may be permitted by law.

6.13 Liability of Managers. So long as the Manager acts in good faith with respect to the conduct of the business and affairs of the Company, neither the Manager nor any officer, agent or employee of any Manager shall be liable or accountable to the Company or to any of the Members, in damages or otherwise, for any error of judgment, for any mistake of fact or of law, or for any other act or thing that it may do or refrain from doing in connection with the business and affairs of the Company, except for willful misconduct or gross negligence or breach of fiduciary duty, and further except for breaches of contractual obligations or agreements between the Managers or any Manager and the Company.

ARTICLE VII TRANSFER OF INTEREST

7.01 Assignment. In the event that the Member transfers all or part of its interest in the Company, persons acquiring an interest in the Company by assignment or otherwise will not become Members until:

- a. their admission as Members is approved by the Managers;
- b. they execute an Operating Agreement of the Company as it then exists; and
- c. they make any required capital contribution.

ARTICLE VIII DISSOLUTION AND TERMINATION

8.01 Events of Dissolution. The Company shall be dissolved upon the first to occur of the following:

- a. the Member delivers to the Company:
 - a. a written statement of its intention to dissolve the Company;
 - b. the entry of a decree of judicial dissolution of the Company as provided in the Act;
- or
- c. automatic cancellation of the Company's Certificate pursuant to the Act.

8.02 Liquidation. Upon the dissolution of the Company, it shall wind up its affairs and distribute its assets in accordance with the Act by either or by a combination of both of the following methods as the Member shall determine:

- a. Selling the Company's assets and, after the payment of Company liabilities, distributing the Net Proceeds from the Sale to the Member; and/or
- b. Distributing the Company's assets to the Member, subject to the Member's liabilities, in satisfaction of the Member's interest.

8.03 Orderly Liquidation. A reasonable time, as determined by the Member but not to exceed three (3) months, shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to the creditors so as to minimize any dissolution losses.

8.04 Distributions. Upon liquidation, the Company assets shall be distributed in the following order and in accordance with the following priorities:

a. First, to the payment of the debts and liabilities of the Company and the expenses of liquidation, including a sales commission to the selling agent, if any; then

b. Second, to the setting up of any reserves that the Member deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company. At the expiration of such period as the Member shall deem advisable, but in no event to exceed three (3) months, the Company shall distribute the balance thereof in the manner provided in the following subparagraph; then

c. Third, to the Member.

ARTICLE IX RECORDS AND BANKING

9.01 Records. The Company shall keep full and accurate books of account and records at the principal office.

9.02 Banking. The funds of the Company shall be kept in one or more separate bank accounts in the name of the Company in such banks or other federally insured depositories as may be designated by the Member. The funds of the Company may be invested in the name of the Company in such manner and upon such terms and conditions as may be designated by the Member. All withdrawals from any such bank accounts or investments established by the Member shall be made on such signature or signatures as may be authorized by the Member. Any account opened for the Company shall not be commingled with other funds of the Member or of interested persons.

ARTICLE X GENERAL PROVISIONS

10.01 Governing Law. This Statement and the rights and liabilities of the parties shall be governed exclusively by the Statement's terms and by the laws of the Commonwealth of Virginia without reference to its choice of law provisions, and specifically the Act.

10.02 Construction. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine, or neutral forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

10.03 Survival of Representations. All representations and warranties herein shall survive until the termination of the Company, except to the extent that a representation or warranty expressly provides otherwise.

10.04 Severability. Every provision of this Statement is intended to be severable. If any term or provision herein is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity of the remainder of the terms or provisions in this Statement.

10.05 Successors. Each and all of the covenants, terms, provisions, and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Statement, their respective heirs, legal representatives, successors and assigns.

10.06 Addresses. The Member shall keep the Company informed of its current address.

10.07 Notices. Except as otherwise provided in this Statement, any notice permitted or required hereunder shall be in writing and shall be deemed given when hand-delivered or sent by registered or certified mail to the intended recipient at the recipient's last known address. Notice sent to the Member's address as maintained in the Company's records shall be effective with respect to the Member.

IN WITNESS WHEREOF, the Member and Company have executed this Agreement.

Tidal W. McCoy



McMark, LLC

By: 
Its Manager



STATE CORPORATION COMMISSION

Richmond, July 14, 2006

This is to certify that the certificate of organization of

McMark, LLC

was this day issued and admitted to record in this office and that the said limited liability company is authorized to transact its business subject to all Virginia laws applicable to the company and its business. Effective date: July 14, 2006



State Corporation Commission

Attest:

Joel H. Peck
Clerk of the Commission